

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

**AIR FORCE OFFICER, AIR FORCE NCO,
AIR FORCE SPECIAL AGENT, and AIR
FORCE ENGINEER,**

Plaintiffs,

v.

LLOYD J. AUSTIN, III, in his official capacity as Secretary of Defense; **FRANK KENDALL, III**, in his official capacity as Secretary of the Air Force; and **ROBERT I. MILLER**, in his official capacity as Surgeon General of the Air Force,

Defendants.

Case No. 5:22-cv-00009-TES

DEFENDANTS' MOTION FOR LEAVE TO FILE CORRECTED BRIEF

Defendants hereby move the Court to grant leave for Defendants to file a corrected reply brief in support of Defendants' motion to dismiss. Defendants filed their reply brief in support of Defendants' motion to dismiss on June 15, 2022. Dkt. 107. After filing, Defendants caught a minor factual error. Specifically, Defendants seek leave to correct the following:

Regardless, as in *Hargay*, at least Air Force Officer NCO had even more "advance notice" that he would be given the choice of retiring or facing discipline should he continue to refuse vaccination if his religious accommodation request was denied. *Hargay*, 57 F.3d at 1569. The Air Force's policy regarding COVID-19 vaccination was made public on December 7, 2021. *See* Supplemental Coronavirus Disease 2019 Vaccination Policy (Dec. 7, 2021), <https://perma.cc/T4ZQ-3N5G>. Air Force NCO received his on January 7, 2022, *id.* ¶ 134, 138, and thus had 34 36 days to consider his decision.

Dkt. 107 at 9–10 n.9. The corrected brief will contain only the above alterations.

Before filing this motion, counsel for Defendants conferred with counsel for Plaintiffs, who reported that Plaintiffs do not object to the requested relief.

For these reasons, Defendants respectfully request that the Court grant leave to file a corrected reply brief in support of Defendants' motion to dismiss.

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